

OFFICIAL GAZETTE



GOVERNMENT OF GOA

NOTE:—There is one Supplementary issue to the Official Gazette, Series I No. 87 dated 9-12-93 as follows:

Supplement dated 9-12-93 from pages 613 to 640 regarding Notifications from Industries Department and Legislature Department.

GOVERNMENT OF GOA

LEGISLATURE SECRETARIAT

Notification

LA/B/4480/1991

The following Bill which was introduced in the Legislative Assembly of Goa on 26-11-93 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 26th November, 1993.

THE GOA FLATS OWNERSHIPS REGULATION BILL, 1993

(Bill No. 32 of 1993)

A

BILL

to regulate the construction of buildings for housing purposes and sale, management and transfer of flats on ownership basis in the State of Goa.

Whereas there has been a tremendous increase in building activities, due to the acute shortage of housing in the several areas of the State of Goa;

And whereas the absence of suitable legislation has led to various mal-practices, abuse in the sale and purchase of ownership flats in the State of Goa;

And whereas it has been found necessary and expedient to make provisions for the regulation of construction of buildings for housing purposes, and sale, management and transfer of flats on ownership basis.

Be it enacted by the Legislative Assembly of Goa in the Forty-fourth Year of the Republic of India as follows:

1. **Short title, extent and commencement.**—(1) This Act may be called the Goa Flats Ownership Regulation Act, 1993.

- (2) It extends to the whole of the State of Goa.
- (3) This Act shall come into force at once.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) “advertisement” means words, letters, model, sign, placard, board, notice, device or representation in any manner whatsoever, wholly or in part, intended for the purpose of advertisement, announcement or anything adapted for the display or advertisement;

(b) “apartment” means a part of any property, intended for any type of independent use, including one or more rooms or enclosed spaces located on one or more floors or any part or parts thereof, in a multi-storeyed building to be used for residence or office or for the practice of any profession, or for such other type of independent use as may be prescribed and with a direct exit to a public street, road or highway, or to a common area leading to such street, road or highway, and includes any garage or room (whether or not adjacent to the multistoreyed building in which such apartment is located) provided by the promoter for use by the owner of such apartment for parking any vehicle or, as the case may be, for the residence of any domestic aide employed in such apartment;

(c) “building of flats” means a building containing four or more flats or two or more buildings each containing two or more flats comprising a part of the property;

(d) “competent authority” means the officer appointed by the Government by notification in the Official Gazette, to exercise and perform all of any of the powers and functions of the competent authority under this Act and the rules made thereunder;

(e) “common areas and facilities” means and includes:—

- (i) the land on which the building is located;
- (ii) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes and entrances and exists of the building;
- (iii) the basements, cellars, yards, gardens, parking areas and storage spaces;

- (iv) the premises for the lodging of janitors;
- (v) installation of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerators;
- (vi) the elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;
- (vii) Stilt portion;
- (viii) open spaces;
- (ix) space below the staircase or similar spaces under the overhead watertank, etc.;
- (x) common lavatories and common bath rooms and passages leading to them;
- (xi) office premises, pump room, electric sub-station etc.;
- (xii) such other community or commercial facilities as are provided under the agreement under section 7 of this Act;
- (xiii) all other parts of the property necessary for maintenance and safety of the property.

(f) construction of a block or building of flats includes conversion of a building or part thereof into flats;

(g) "Government" means the Government of Goa;

(h) "flats" means a separate and self contained set of premises used or intended to be used for residence or office, showroom or shop of godown and includes a garage, premises forming part of a building and an apartment.

Explanation. — Notwithstanding that provision is made for sanitary, washing, bathing or other conveniences as common to two or more sets of premises, the premises shall be deemed to be self contained;

(i) "plots" means a continuous portion of land held in one ownership;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "promoter" means a person who constructs or causes to be constructed a block or building of flats for the purpose of selling some or all of them to other persons or to a company, cooperative society or other association of persons, and includes his assignees, and where the person who builds the buildings with flats and the person who sells are different persons, the term includes both;

(l) "Official Gazette" means the Official Gazette of the Government;

(m) "Registrar" means a person appointed to be the Registrar of Cooperative Societies under the Maharashtra Co-operative Societies Act, 1960 as applied to the State of Goa.

3. Promoter to obtain licence before starting construction of flats. — (1) Notwithstanding anything contained in any other law, a promoter who intends to construct a building of flats shall make

an application to the competent authority for the grant of licence to build the same, in such form and pay such fees as may be prescribed. The application shall be accompanied by an income tax clearance certificate.

(2) The grant of a licence to any person for construction of a building of flats shall be subject to the following conditions:

(i) he must possess a clear title to the land on which apartments are proposed to be constructed and produce documentary evidence to the prescribed authority in support thereof;

(ii) the plan for construction of flats should be in accordance with the provisions of the relevant laws, rules, orders or of the Master or Zonal Development Plan as evidenced by written permission/licence/no objection certificate from competent authority or authorities;

(iii) in case the land is held on lease-hold basis, clearance from the lessor for construction of apartments must be produced;

(iv) he should furnish a bank guarantee equal to 10% of the estimated cost of the proposed building or apartments subject to maximum of Rs. 10 lakhs as security for the due performance of the obligations under this Act and the rules framed thereunder and the agreement to be entered into with the prospective buyers of apartments.

4. Competent Authority empowered to conduct enquiry before grant of licence and fix the period of validity of licence. — (1) On receipt of the application, the competent authority after conducting such enquiry as he deems fit, by an order in writing shall—

(a) grant a licence in the prescribed form; or

(b) refuse to grant a licence by means of a speaking order after affording the applicant an opportunity of being heard.

(2) The licence so granted shall be valid for such period as may be allowed by the competent authority after taking into account the scheme of construction submitted by the promoter, and will be renewable from time to time for a period of one year on payment of the prescribed fee—

5. General Liabilities of Promoter. — (1) Notwithstanding anything contained in any other law, a promoter who intends to construct a block or building of flats, all or some of which are to be taken or are taken on ownership basis, shall in all transactions with persons intending to take or taking one or more of such flats, be liable to give or produce, or cause to be given or produced, the information and the documents hereinafter in this section mentioned.

(2) A promoter, who constructs or intends to construct such block or building of flats, shall—

(a) make full and true disclosure of the nature of his title to the land on which the flats are constructed, or are to be constructed, such title to the land as aforesaid having been duly certified by an Advocate of not less than three years standing;

- (b) make full and true disclosure of all encumbrances on such land, including any right, title interest or claim of any party in or over such land;
- (c) give inspection on seven days' notice or demand, of the plans and specifications of the building built or to be built on the land, such plans and specifications having been approved by the local authority which he is required so to do under any law for the time being in force;
- (d) disclose the nature of fixtures, fittings and amenities (including the provision for one or more lifts) provided or to be provided;
- (e) disclose on reasonable notice or demand, if the promoter is himself the builder, the prescribed particulars as respects the design and the materials to be used in the construction of the building, and if the promoter is not himself the builder, disclose on such notice or demand, all agreements (and where there is no written agreement, the details of all agreements) entered into by him with the architects and contractors regarding the design, materials and construction of the building;
- (f) specify in writing the date by which possession of the flat is to be handed over to the purchaser;
- (g) prepare and maintain a list of flats with their numbers already taken or agreed to be taken, and the names and addresses of the parties, and the price charged or agreed to be charged therefor, and the terms and conditions, if any, on which the flats are taken or agreed to be taken;
- (h) state in writing, the precise nature of the organisation of persons to be constituted and to which the title is to be passed, and the terms and conditions governing such organisation of persons who have taken or are to take the flats;
- (i) not allow persons to enter into possession until a completion certificate, where such certificate is required to be given under any law, is duly given by the local authority;
- (j) make a full and true disclosure of all outgoings (including ground rent or any municipal or other local taxes, taxes on income, water charges and electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any);
- (k) make a full and true disclosure of such other information and documents, in such manner as may be prescribed, and give on demand true copies of such of the documents referred to in any of the clauses of this sub-section as may be prescribed at a reasonable charge therefor;
- (l) give estimated cost of the building of flats proposed to be constructed;

6. Liability of a promoter for construction of building in accordance with the agreement entered into with the prospective buyers of flats. — (1) A promoter who has been granted a licence for construction of building of flats, all or some of which are meant for sale and who has entered into agreement with the prospective buyers of such flats shall —

- (a) carry out development of land for construction of the flats in accordance with the requirements of the prospective buyers of flats;

- (b) pay proportionate development charges if the main lines of roads, drainage, sewerage, telegraph lines, water supply and electricity are to be laid out and constructed by the Government or any other local authority. The proportion in which and the time within which such payments are to be made shall be determined by the competent authority;
- (c) be responsible for the maintenance and up-keep of all roads, open spaces, drainage and other public health services till such time the flats so constructed are transferred to the prospective buyers of such flats and all the roads, open spaces, drainage and other common areas are transferred without any further payment to the Cooperative society for maintenance and up-keep, as soon as the cooperative society is formed of the said owners;
- (d) construct at his own cost, or get constructed by any other institution or individual at its cost, schools, hospitals, community centres and other community buildings on the lands set apart for this purpose, or to transfer to the Government at any time, if so desired by the Government, free of cost the land set apart for schools, hospitals, community centres and community buildings, in which case the Government shall be at liberty to transfer such land to any person or institution including a local authority on such terms and conditions as it may deem fit;
- (e) permit the competent authority or any other officer authorised by him to inspect the execution of the lay out and the development works in the colony and to carry out all directions issued by him for ensuring due compliance of the execution of the layout and development works in accordance with the licence granted;

Provided that, if the competent authority, having regard to the amenities which exist or are proposed to be provided in the locality, is of the opinion that it is not necessary or possible to provide one or more such amenities, may exempt the licences from providing such amenities either wholly or in part.

7. Promoter before accepting advance payment or deposit to enter into agreement and agreement to be registered. — Notwithstanding anything contained in any other law, a promoter who intends to construct or constructs a block or building of flats, all or some of which are to be taken or are taken on ownership basis, shall, before he accepts any sum of money as advance payment or deposit, which shall not be more than 20 per cent of the sale price execute an agreement in the form as may be prescribed for sale with each of such persons who are to take or have taken such flats, and shall cause its registration under the Registration Act, 1908 (Central Act 16 of 1908) before giving possession of the flats to the purchaser.

8. Prospectus, advertisement or notice offering flats for sale to be issued subject to certain conditions. — No person shall issue a prospectus, advertisement or notice, offering or purporting to offer for sale any flats or inviting the public to

make deposits or advances unless the following conditions are fulfilled:

- (i) The promoter must have obtained a licence under the Act for construction of apartments for sale to the public;
- (ii) A copy of the prospectus, advertisement or notice should be delivered on or before its publication to the competent authority;
- (iii) the prospectus, advertisement or notice should make full and true disclosure of the nature of the title of the promoter to the land, details of the proposed construction, designs, quality of materials to be used, the date by which possession will be handed over and such other matters as may be prescribed;
- (iv) the prospectus advertisement or notice must be made available for inspection, and indicate the place and time for inspection of documents, certificates from experts like architects, etc. mentioned in the prospectus;
- (v) In case the prospectus, advertisement or notice makes a reference to the opinion of experts like architects, their prior consent therefor should be obtained and statement to that effect should be made in it.

9. Persons liable to compensate affected persons for mis-statements in prospectus. — (1) Where a prospectus, advertisement or notice invites persons to take flats and to make advances or deposits therefore, the following persons shall be liable to pay the amount due with interest of 10% and compensation as may be determined by the competent authority which shall however not exceed 50% of the agreed cost to every person who makes such advances or deposits on the faith of such prospectus, advertisement or notice for any loss or damage he may have sustained by reason of any untrue statement included therein:

- (a) The promoters if they are individuals;
- (b) Every partner of the firm, if the promoter is a firm;
- (c) If the promoter is a company, every person who is a Director of the company at the time of the issue of the prospectus, advertisement or notice.

(2) No person shall be liable under the above provisions if he proves —

- (a) that having consented to become a Director of the company, he withdrew his consent before the issue of prospectus, and that it was issued without his authority or consent;
- (b) that the prospectus was issued without his knowledge or consent and that on becoming aware of its issue, he forthwith gave reasonable public notice that it was issued without his knowledge or consent;
- (c) that after the issue of the prospectus and before any agreement was entered into with the buyers of flats, he on becoming aware of any untrue statement therein, withdrew his consent

to the prospectus and gave reasonable public notice of the withdrawal and of the reason therefor.

10. Criminal liability of promoters etc. for mis-statement in prospectus. — Where any prospectus, advertisement or notice issued at the commencement of this Act includes any untrue statement, every person who authorised the issue of the prospectus shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to rupees five thousand or with both unless he proves either that the statement was immaterial or that he had ground to believe, and did, upto the time of issue of the prospectus believe that the statement was true.

11. Promoter to maintain separate account of sums taken as a advance or deposit and to be trustee therefor and disburse them for which given. — The promoter shall maintain a separate account in any bank of sums taken by him from persons intending to take or who have taken flats, as advance or deposit, including any sums so taken towards the share capital for the formation of a co-operative society or a company or towards the outgoings (including ground rent if any, municipal or other local taxes, taxes on income, water charges, electricity charges, revenue assessment, interest on any mortgage or other encumbrances if any); and he shall hold the said moneys for the purposes for which they were given and shall disburse the moneys for those purposes and shall on demand render full and true account of the transaction entered into by him to the flat takers or their organisation and shall on demand in writing by the competent authority within a month, make full and true disclosure of all transaction in respect of that account.

12. Responsibility for payment of outgoing till property is transferred. — (1) A promoter shall, while he is in possession, and where he collects from persons who have taken over flats or are to take over flats sums for the payment of outgoings, pay all out-goings (including ground rent, municipal or other local taxes, taxes on income, water charges, electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any) until he transfers the property to the persons taking over flats or to the organisation of any such persons.

(2) The promoter shall render full and true account of the amounts collected by him and the payments of outgoings effected by him before transfer of the flats to the flat takers or their organisation.

(3) The promoter shall not collect any amounts towards outgoing of the property once an organisation of the flat takers is registered.

(4) The promoter shall present the statement of municipal taxes within three days from the date of its receipt to the flat takers or their organisation.

(5) Where there is a dispute as regards any defect in the building or material used, or any unauthorised change in the construction, or as to

whether it is reasonably possible for the promoter to rectify any such defect or change, or as regards the amount of reasonable compensation payable in respect of any such defect or change which cannot be or is not, rectified by the promoter, the matter shall on payment of such fee as may be prescribed be referred for decision to the competent authority. The competent authority himself or through an official authorised by him, within a period of one year from the date of handing over possession shall after inquiry, record his decision which shall be final.

13. After plans and specifications are disclosed, no alterations or additions are to be made without consent of persons who have agreed to take flats and defects noticed within a year to be rectified. — (1) After the plans and specifications of the building as approved by the local authority as aforesaid are disclosed or furnished to the persons who agree to take the flat, the promoter shall not make —

(i) any alteration in the structure prescribed therein in respect of the flat which is agreed to be taken, without the previous consent in writing of that person;

(ii) make any other alterations in the structure of the building or construct any additional structures without the prior consent in writing of all the persons who have agreed to take the flats or their organisation.

(2) Subject to sub-section (1), the building shall be constructed and completed in accordance with the plans and specifications aforesaid, and if any defect in the building or material used, or if any unauthorised change in the construction is brought to the notice of the promoter within a period of one year from the date of handing over possession, it shall be rectified by the promoter within a period of six months without further charges from the persons who have agreed to take the flats, and in other cases such persons shall be entitled to receive reasonable compensation for such defects or change.

14. Refund of amount paid with interest for failure to give possession within specified time or further time allowed. — If —

(a) the promoter fails to give possession in accordance with the terms of his agreement of a flat duly completed by the date specified, or any further date or dates agreed to by the parties; or

(b) the promoter for reasons beyond his control and of his agents, is unable to give possession of the flat by the date specified, or the further agreed date and a period of three months thereafter or a further period of three months if those reasons still exist, then in any such case the promoter shall be liable on demand (but without prejudice to any other remedies to which he may be liable) to refund the amount within a period of three months already received by him in respect of the flat (with simple interest at twelve per cent per annum from the date he received the sums till the date the amounts and interest thereon is refunded), and the amounts and the interest shall be a charge on the land and the construction if any, thereon in which the flat is or was to be

constructed, to the extent of the amount due, but subject to any prior encumbrances.

15. No mortgage, etc., to be created without consent of parties after execution of agreement for sale. — No promoter shall, after he executes an agreement to sell any flat mortgage or create a charge on the flat or the land without the previous consent of the persons who take or agree to take the flats, and if any such mortgage or charge is made or created without such previous consent after the agreement referred to in section 7 is registered, it shall not affect the right and interest of such persons.

16. Promoter to take steps for formation of Cooperative Society. — (1) As soon as a minimum number of persons required to form a Co-operative Society have taken flats; the promoter shall within the prescribed period submit an application to the Registrar for registration of the organisation of such persons as a Co-operative Society;

(2) The promoter shall mention in his application for membership of a Co-operative Society the full particulars of the flats which have not been taken by anybody and the promoter shall furnish such information and submit such documents as may be required by the Registrar within a period of one month from the date of service of a notice to that effect on him by the Registrar.

(3) After submission of the proposal for registration to the Registrar, the promoter shall not sell, re-sell, let-out, sublet, assign or dispose off any of the flats without the prior written consent of the Registrar.

(4) Once the Co-operative Society has been registered the promoter shall not sell, resell let-out, sub-let, assign or dispose off any of the unsold flats without previous consent of the majority of the members, in the general body of the Co-operative Society.

(5) The promoter shall transfer all the roads, open spaces, drainage and other common areas to the Co-operative Society for maintenance and up-keep as soon as the Co-operative Society is formed. The ownership of all such roads, open spaces drainage and other common areas shall thereafter vest in the Co-operative Society.

(6) The promoter shall hand over all the records pertaining to the formation and registration of the organisation to the Chairman or Secretary of the Co-operative Society within fifteen days from the date of first general body meeting of the Society.

17. Promoter to convey title, etc. and execute documents, according to agreement. — A promoter shall take all necessary steps to complete his title and convey to the organisation of persons who take flats, which is registered either as a Co-operative Society or as a company as aforesaid, or to an association of flat-takers his right, title and interest in the land and building and execute all relevant documents therefor in accordance with the agreement executed under section 7 and if no period for the execution of the conveyance is agreed upon, he shall execute the conveyance within the prescribed period and also deliver all documents of title relating to the property which may be in his possession or power:

Provided that when such conveyance is not executed within the aforesaid period, after expiry of the said period the conveyance of the property shall be deemed to have been affected in favour of the Co-operative Society.

18. General liabilities of flat-taker. — (1) Every person who has executed an agreement to take a flat shall pay at the proper time and place the price, his proportionate share of the municipal taxes, water and electricity charges, ground rent (if any) and other public charges in accordance with his agreement with the promoter; and where a Co-operative Society of persons taking the flats is to be constituted, co-operate in the formation of such society.

(2) Any person who has executed an agreement to take a flat and who, without reasonable excuse, fails to comply with or contravenes the provisions of sub-section (1) shall, on conviction be punished with fine which may extend to two thousand rupees.

19. Manager not to cut off, withhold, curtail or reduce essential supply or service. — (1) No person, who is a promoter, or who is in charge of management or connected with the management of a block or building of flats, whether as member of managing committee, director, secretary or otherwise or is responsible for the maintenance thereof (hereinafter in this section referred to as "the manager"), shall, without just and sufficient cause, either by himself or through any person, cut off, withhold, or in any manner curtail or reduce, any essential supply or service enjoyed by the person who has taken a flat (or by any person in occupation thereof).

(2) The person who has taken or agreed to take the flat or the occupier may, if the manager has contravened the provisions of sub-section (1), make an application to the competent authority for a direction to restore such supply or service.

(3) If the competent authority on enquiry finds that the applicant or the persons through or under whom he is in occupation has been in enjoyment of the essential supply or services and that it was cut off or withheld or curtailed or reduced by the manager without just and sufficient cause, it shall make an order directing the manager to restore such supply or service before a date to be specified in the order.

(4) The manager who fails to restore the supply or services before the date so specified shall for each day during which the default continues thereafter be liable upon a further direction by the competent authority to that effect to find which may extend to one hundred rupees.

(5) Any manager who contravenes the provisions of sub-section (1) shall, on conviction be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

(6) The offence under sub-section (5) shall be cognizable, and shall not be triable by any competent authority inferior to that of a Judicial Magistrate of the First Class.

Explanation I. — In this section, essential supply or service includes the supply of water, electricity, lights in passages and on stair-cases, and lifts and conservancy or sanitary services.

Explanation II. — For the purpose of this section, withholding any essential supply or service shall include acts or omissions attributable to the manager on account of which the essential supply or service is cut off by the local authority or any other competent authority.

20. Registers to be maintained by competent authority. — The competent authority shall maintain such registers as may be prescribed showing sufficient particulars of all cases in which licence is granted or refused by him and the said registers shall be available for inspection without charges by all interested persons and such persons shall be entitled to have extracts therefrom.

21. Submission of Audited Accounts by the Promoter. — The promoter shall get his accounts audited, after the close of every financial year by a chartered accountant and shall produce a statement of accounts duly certified and signed by such chartered accountant in the prescribed to the competent authority.

22. No flat to be transferred or no building to be erected without licence. — No promoter shall —

(i) Without obtaining a licence under section 3, transfer or agree to transfer in any manner flat or make an advertisement or receive any amount in respect thereof;

(ii) erect or re-erect any building in respect of which a licence under section 3 has not been granted.

23. Power to cancel the licence for contravention of the condition of licence. — (1) A licence granted under this Act, shall be liable to be cancelled by the competent authority if the promoter contravenes any of the conditions of the licence or the provisions of this Act or the rules made thereunder:

Provided that before such cancellation the promoter shall be given an opportunity of being heard.

(2) After cancellation of the licence, the Government may, if it deems expedient, acquire the land and building, if any, under the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894), and may develop it in accordance with any other law. If structure exists on land, it may be acquired by the Government after payment of a reasonable compensation.

(3) The Government may, while allotting flats in the land and building so acquired give preference to the flat buyers in the manner prescribed.

24. Offences by promoter. — Any promoter who, without reasonable excuse, fails to comply with or contravenes any provision of this Act or of any rule made thereunder or any of the conditions of the licence granted under section 3, shall where no other penalty is expressly provided for, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which

may extend to two thousand rupees or with both; and a promoter who commits criminal breach of trust of any amounts advanced or deposited with him for the purposes mentioned in section 11 shall, on conviction be punished with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.

25. Cognizance of offences.—(1) No court inferior to that of a Judicial Magistrate of the First Class shall try any offence under the Act.

26. Appeal.—Any person aggrieved by any order of the competent authority under this Act, may, within a period of thirty days of the communication of the order to him prefer an appeal to the Goa Co-operative Tribunal constituted under the Maharashtra Cooperative Societies Act, 1960 (Maharashtra Act 74 of 1961) as applied to the State of Goa and in such form and manner as may be prescribed:

Provided that the appeal may be entertained after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that the Tribunal hearing an appeal under the Act shall exercise all powers conferred upon an appellate Court by Section 97 and Order XLI in the First Schedule of the Code of Civil Procedure, 1908 (Central Act V of 1908).

27. Delegation.—The Government may, by notification direct that the powers exercisable by it under the provision of this Act, except under section 29 shall, in such circumstances and under such conditions as may be specified therein, be exercised also by an officer subordinate to it.

28. Power to exempt.—If the Government is of the opinion that the operation of any of the provisions of this Act causes undue hardship or if circumstances exist which render it expedient so to do, may exempt any person or persons or association of persons from all or any of the provisions of the Act.

29. Power to make rules.—(1) The Government, may, subject to the conditions of previous publication, by notification in the Official Gazette, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the particulars to be contained in the application for licence to be submitted by the promoter and the fees to be charged for grant/renewal of licence and the form in which licence shall be given;

(b) the particulars to be contained in the agreement for sale and the documents or copies thereof to be attached to such agreement;

(c) the authority to whom the prospectus, advertisement or notice is to be submitted;

(d) the period within which the promoter shall execute the conveyance of the flat.

(e) the registers to be maintained by the promoter;

(f) the manner in which accounts are to be maintained by the promoters;

(g) Any other matter which has to be, or may be prescribed.

30. Provisions of this Act to have overriding effect.—The provisions of this Act, except where otherwise provided, shall be in addition to the provisions of the Transfer of Property Act, 1882 (Central Act 4 of 1882), and shall take effect notwithstanding anything to the contrary contained in any contract.

31. Act not to apply to Housing Board and Planning and Development Authority.—Nothing in this Act shall apply to the Goa, Daman and Diu Housing Board constituted under the Goa, Daman and Diu Housing Board Act, 1968, (Act 12 of 1968) and Planning and Development Authority established under the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act No. 21 of 1975).

Statement of objects and Reason

At present there is no law to regulate the construction and sale of flats, shops, etc., as a consequence of which the purchasers are put to great hardships and even defrauded by unscrupulous builders. Hence the need for legislation in this regard. An official Bill on the present lines was moved during the time of Chief Minister Pratap Singh Rane but the same had lapsed. The present Bill is a verbatim reproduction of the Goa Flats, Ownerships, Regulations Bill 1989 as presented by the Select Committee of the House headed by Dr. Luis Proto Barbosa on 27-7-1989. The original bill was moved by Shri Ramakant Khalap the Leader of the Opposition then and now.

Financial Memorandum

In clause 3 the promoter who intends to develop plot for housing or to construct a building of flats has to make application to the Competent Authority.

In clause 4 the Competent Authority is empowered to conduct an enquiry before grant of licence.

In clause 20 the Competent Authority shall maintain such registers as may be prescribed showing particulars etc.

In clause 21 a statement of accounts duly certified and signed by chartered accountant has to be produced to the Competent Authority by the promoter.

The aforesaid provisions would require the creation of an office to assist the competent authority in the discharge of his functions. The Bill, if enacted will be applicable to the State of Goa, and will cover all buildings whether residential, commercial or of any other nature. For effecting the implementation of the provisions, the works of the competent authority is proposed to be divided into three zones namely Panaji covering talukas of

16TH DECEMBER, 1993

Tiswadi, Ponda, Mapusa covering the talukas of Bardez, Pernem, Satari and Bicholim and Margao covering the talukas of Salcete, Mormugao, Quepem, Sanguem and Canacona. The staff component required for assisting the competent authority in the work relating to these three zones has been estimated to result in a recurring expenditure of Rs. 5,00,000/-.

There would be no need for hiring of other premises since it is proposed to have office attached to the Asstt. Registrar of Co-operative Societies at Panaji, Mapusa and Margao.

Memorandum Regarding Delegated Legislation

Clause 29 of the Bill empowers the Government to make rules for carrying into effect the provisions of the Act.

This delegation is of normal character.

Panaji,

5th November, 1993.

RADHARAO F. GRACIAS

M. L. A.

Assembly Hall,

Panaji,

12th November, 1993.

ASHOK B. ULMAN

Secretary to the Legislative
Assembly of Goa.